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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

PACIFIC COAST FEDERATION OF
FISHERMEN'S ASSOCIATIONS, *et al.*,

Plaintiffs,

v.

WILBUR ROSS, in his official capacity
as Secretary of Commerce, *et al.*,

Defendants.

Case No. 1:20-cv-00431-DAD-EPG

**REQUEST AND ORDER TO EXCUSE
LATE FILING PURSUANT TO LOCAL
RULE 134(c) TECHNICAL FAILURE**

Judge: Hon. Dale A. Drozd

Courtroom 5, 7th Floor
2500 Tulare Street
Fresno, CA 93721

Pursuant to Local Rule 134(c)(1), Plaintiffs Golden State Salmon Association, Natural Resources Defense Council, Inc., Defenders of Wildlife, Bay.Org d/b/a The Bay Institute, Pacific Coast Federation of Fishermen's Associations and Institute for Fisheries Resources (collectively "Plaintiffs") do and hereby request that the Court excuse the late filing of, and accept as filed, the two documents filed at Dkts. 239 and 239-1, which may have been filed a few minutes past the filing deadline as a result of a technical failure of the Court's CM/ECF site.¹ See CM/ECF notification of filing for Dkts. 239 and 239-1 (indicating that the "transaction was entered" at 0:02 a.m. on December 19, but "filed on December 18, 2020)."

There is good cause to excuse the late filing of these documents because, as described in further detail below, there was a technical failure of the Court's CM/ECF website that lasted more than two hours on the evening of December 18, 2020. Local Rule 134(c)(1). This caused significant delays in Plaintiffs' ability to upload and file the more than two hundred documents associated with Plaintiffs' Motion to Complete the Administrative Records or, in the Alternative, Supplement the Administrative Records ("Motion to Complete the Administrative Records") (Dkt. 224). Plaintiffs ultimately were able to timely file all but one exhibit (split into two parts, Exh. 161A-1 and Exh. 161A-2), see Dkt. 239, as a result of diligent and continued efforts to file documents over a span of more than seven hours.

The delay in filing this exhibit was a result of the significant delays in filing that were caused by the CM/ECF site's technical failure. Specifically, while Plaintiffs were in the process of filing all of the Exhibits associated with their Motion to Complete the Administrative Records, the CM/ECF site began continuously and repeatedly crashing. Plaintiffs repeatedly attempted to upload batches of exhibits for filing, but before any filing could be completed, the site would crash and the process of uploading each exhibit to CM/ECF for filing would have to be re-started. After an hour of such failed attempts and site crashes, Plaintiffs were able to file two small batches of ten

¹ Local Rule 134(c) defines a technical failure of the CM/ECF site as a scenario in which "the site is unable to accept filings continuously or intermittently over the course of any period of time greater than two hours after 2:00 p.m. on a given day." Local Rule 134(c)(1) directs parties with untimely filings due to CM/ECF failure to "file the document as promptly as possible and seek appropriate relief from the Court."

1 DATED: December 21, 2020

/s/ Glen H. Spain
Glen H. Spain

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6 *Fishermen's Associations and Institute for Fisheries*
7 *Resources*

8 **ORDER**

9 Pursuant to Local Rule 134(c)(1), and good cause having been shown, the court hereby
10 excuses any late filing of, and accepts as filed, the two parts of Exhibit 161A filed by Plaintiffs at
11 Dkts. 239 and 239-1.

12
13 IT IS SO ORDERED.

14 Dated: **December 31, 2020**


UNITED STATES DISTRICT JUDGE